



**DRAFT MINUTES**  
**CUPERTINO CITY COUNCIL**  
Tuesday, January 19, 2016

**SPECIAL CITY COUNCIL MEETING**

**ROLL CALL**

At 4:45 p.m. Mayor Barry Chang called the Special City Council meeting to order in Cupertino City Hall Conference Room A, 10300 Torre Avenue.

Present: Mayor Barry Chang, Vice Mayor Savita Vaidhyathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

Council went into closed session and reconvened the special meeting in open session at 5:40 p.m. in the Cupertino Community Hall Council Chamber, 10350 Torre Avenue for the study session.

**CLOSED SESSION**

1. Subject: Conference with Legal Counsel-Anticipated Litigation: Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9. One case.

Mayor Chang announced that Council gave direction.

2. Subject: Conference with Legal Counsel-Anticipated Litigation: Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9. Two cases.

Mayor Chang announced that Council gave direction to staff.

3. Subject: Conference with Real Property Negotiators (Government Code Section 54956.8); Property: Cupertino Municipal Water System; Agency Negotiator: Timm Borden; Negotiating Parties: City of Cupertino and San Jose Water Company; Under Negotiation: Terms for City Leased Asset.

Mayor Chang announced that Council gave direction to staff.

**STUDY SESSION**

4. Subject: Study session regarding Economic Development Strategic Plan (EDSP) draft background report

Recommended Action: Conduct study session and provide direction to staff

Written communications for this item included a staff PowerPoint presentation.

Economic Development Manager Angela Tsui and Sujata Srivastava, Principal Strategic Economics, Inc. reviewed the draft background report via a PowerPoint presentation.

Council provided the following direction to staff:

- Acquire more recent employment and employer data
- Look at property taxes for breakdown of usage
- Look at different types of uses and their impact to local entities
- Look at other potential uses of areas
- Advise what City can do to help companies find space and what types of space they are looking for
- Overlay business license data to look at self-employed businesses
- Look into trend in bay area and nationally regarding retail only or traditional mall formats vs. mixed use
- Look further into the hotel situation, whether or not the city has a shortage or surplus of rooms
- Advise what types of amenities or infrastructure attracts employers and employees

Ms. Tsui noted that a draft strategic plan would come back to Council probably in the spring for further direction before moving forward with more concrete plans.

5. Subject: Study Session to consider entering into a Memorandum of Understanding with the Rotary Club of Cupertino to renovate the Stocklmeir home and surrounding property to utilize as a non-profit center for Cupertino

Recommended Action: Conduct a study session to consider the Rotary's proposal and direct staff to:

1. Put this item on a future Council agenda;
2. Provide additional information for Council consideration; or
3. Not pursue this proposal

Council member Sinks recused himself from this item and left the dais.

Director of Recreation and Community Services Carol Atwood introduced the item and Cupertino Rotary President Wendell Stephens made a presentation to Council. He answered questions from Council.

Janet Trankle thanked Rotary for its efforts to restore the building.

Kim Stocklmeir thanked Rotary for its efforts to preserve the orchard and house.

Council comments included: shorten lease term to 15 years initially and bi-lateral agreement to renew every 15 years; include non-profit and residential usage of property in agreement and specify how usage is divided up; encourage youth to use property; recognize Stocklmeir name somewhere; look into finding home for Cupertino Historical Society; more detail on sewer cost.

Council gave direction to staff to come back at another study session with a draft agreement and more detail on renovation cost.

## **ADJOURNMENT**

At 6:57 p.m. Mayor Chang adjourned the special meeting.

## **REGULAR CITY COUNCIL MEETING**

### **PLEDGE OF ALLEGIANCE**

At 7:02 p.m. Mayor Barry Chang called the Regular City Council meeting to order in Cupertino Community Hall Council Chambers, 10350 Torre Avenue and led the Pledge of Allegiance.

### **ROLL CALL**

Present: Mayor Barry Chang, Vice Mayor Savita Vaidhyanathan, and Council members Darcy Paul, Rod Sinks and Gilbert Wong. Absent: None.

**CEREMONIAL MATTERS AND PRESENTATION**

1. Subject: Update from the Technology, Information, and Communications Commission  
Recommended Action: Receive the update

Written communications for this item included a PowerPoint presentation.

Technology, Information, and Communications Commission Chair Rod Livingood gave an update via a PowerPoint presentation.

Council received the presentation.

**POSTPONEMENTS - None****ORAL COMMUNICATIONS**

Cathy Helgersen talked about the Lehigh Southwest Cement plant causing pollution and the petition from Better Cupertino. She distributed written comments.

Jon Willey talked about proposed development at The Oaks and Goodyear Tire. He distributed written comments.

Staci Yee read a letter published in the Cupertino Courier regarding what Cupertino used to be and current issues with high density buildings and traffic congestion.

Phyllis Dickstein talked about issues with collecting petition signatures at Cupertino facilities.

Rhoda Fry talked about noise pollution issues in her area potentially coming from Lehigh.

Joan Chin talked about increasing traffic in and around Cupertino and offered some solutions.

Peggy Griffin talked about concern over the amount of development in the community and the residents having a voice with the Initiative petition.

Liang-Fang Chao on behalf of the Cupertino Citizens Sensible Growth Initiative group talked about the Initiative. She distributed written comments.

Liana Crabtree talked about issues with collecting petition signatures at Cupertino facilities. She read a statement into the record.

Lisa Warren talked about a Letter of Intent from Sand Hill Properties to the Cupertino Union School District regarding a new school proposal.

Steven Scharf talked about the Stocklmeir restoration proposal.

David Alesio talked about issues with noise pollution and identifying where a specific noise might be coming from.

Don Sun talked about venues for residents to speak and encouraged them to speak at the Planning Commission meetings.

Jerry Sheahan talked about the Hills at Vallco project and the financial backers of the Sand Hill developers.

Susan Chen talked about supporting a public vote for Cupertino development and no support for rezoning Vallco.

## CONSENT CALENDAR

Wong moved and Savita seconded to approve the items on the Consent Calendar as presented with the exception of item numbers 9 and 10 which were pulled for discussion. Ayes: Chang, Vaidhyathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

2. Subject: Approve the December 1 City Council minutes  
Recommended Action: Approve the minutes
3. Subject: Accept Accounts Payable for the period ending November 13, 2015  
Recommended Action: Adopt Resolution No. 16-001 accepting Accounts Payable for the period ending November 13, 2015
4. Subject: Accept Accounts Payable for the period ending November 20, 2015  
Recommended Action: Adopt Resolution No. 16-002 accepting Accounts Payable for the period ending November 20, 2015

5. Subject: Accept Accounts Payable for the period ending November 25, 2015  
Recommended Action: Adopt Resolution No. 16-003 accepting Accounts Payable for the period ending November 25, 2015
6. Subject: Accept Accounts Payable for the period ending December 4, 2015  
Recommended Action: Adopt Resolution No. 16-004 accepting Accounts Payable for the period ending December 4, 2015
7. Subject: Accept Accounts Payable for the period ending December 11, 2015  
Recommended Action: Adopt Resolution No. 16-005 accepting Accounts Payable for the period ending December 11, 2015
8. Subject: Application for Alcoholic Beverage License for Deep Cliff Golf Course, 10700 Clubhouse Lane  
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the Application for Alcoholic Beverage License for Deep Cliff Golf Course, 10700 Clubhouse Lane
9. Subject: Summary Vacation of a Wire Clearance Easement within the Civic Center property at 10300 Torre Avenue  
Recommended Action: Adopt Resolution No. 16-006 summarily vacating a wire clearance easement within the Civic Center property at 10300 Torre Avenue

Staff answered questions from Council.

Wong moved and Vaidhyanathan seconded to adopt Resolution No. 16-006 summarily vacating a wire clearance easement within the Civic Center property at 10300 Torre Avenue. The motion carried unanimously.

10. Subject: Update on Permanent Program for Early Morning Collection of Solid Waste Containers on Select Streets in the Tri-School Area.  
Recommended Action: Receive report with no changes recommended to permanent program.

Sinks recused himself from voting on this item and left the dais.

Mayor Chang opened public comment and the following individuals spoke:

Julie Johnson  
Rhoda Fry  
Scott Hughes  
Revathy Narasimhan  
Cynthia Cheng

Recology General Manager John Zirelli and staff answered questions from Council.

Wong moved and Vaidhyanathan seconded to receive the report with no changes recommended to permanent program and gave direction to staff to bring a report back to Council in about 9 months. The motion carried with Sinks recusing.

Sinks returned to the dais.

## SECOND READING OF ORDINANCES

11. Subject: Second reading of ordinance directing actions related to the formation of, and Cupertino's membership in, the Silicon Valley Clean Energy Authority (SVEA), an independent joint powers authority, which will provide a Community Choice Aggregation Program to offer clean energy alternatives for Cupertino residents and businesses

Recommended Action: 1. Conduct the second reading of the Ordinance No. 15-2138: "An Ordinance of the City Council of the City of Cupertino Authorizing the Implementation of a Community Choice Aggregation Program" to create and participate in the Silicon Valley Clean Energy Authority; and 2. Appoint a regular Director and alternate Director to the Authority's Board of Directors and direct staff to add Council's appointment to the Authority to the future Council committee assignments calendar

City Clerk Grace Schmidt read the title of the ordinance.

Wong moved and Sinks seconded to read Ordinance No. 15-2138 by title only and that the City Clerk's reading would constitute the second reading thereof. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Wong moved and Sinks seconded to enact Ordinance No. 15-2138. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Council reordered the agenda to take up item number 13 under Ordinances and Action Items next.

## ORDINANCES AND ACTION ITEMS

13. Subject: Order the abatement of a public nuisance (weeds) pursuant to provisions of Ordinance No. 724 and Resolution No. 15-112  
Recommended Action: Note objections and adopt Resolution No. 16-007 ordering abatement of a public nuisance (weeds)

City Clerk Grace Schmidt reviewed the staff report.

Wong moved and Paul seconded to adopt Resolution No. 15-112 ordering abatement of a public nuisance (weeds). The motion carried unanimously.

Council continued with item number 12 under Public Hearings.

## PUBLIC HEARINGS

12. Subject: Enact an Urgency Ordinance and conduct the first reading of an ordinance amending the Cupertino Municipal Code to prohibit marijuana cultivation, dispensaries, and deliveries and commercial cannabis activities within the City of Cupertino. (Application No. MCA-2015-01; Location: City-wide; Applicant: City of Cupertino)  
Recommended Action: 1. Find that the proposed actions are exempt from CEQA; and 2. Enact Urgency Ordinance No. 16-2139: "An Interim Urgency Ordinance of the City Council of the City of Cupertino establishing a moratorium on Medical Marijuana Dispensaries, Marijuana Cultivation Facilities, Commercial Cannabis Activities and Medical Marijuana deliveries within the City of Cupertino pending completion of an update to the City's Zoning Code"; and 3. Conduct the first reading of Ordinance No. 16-2140: "An Ordinance of the City Council of the City of Cupertino amending Section 19.08.030 and adding Chapter 19.98 of Title 19 of the Cupertino Municipal Code regarding Medical Marijuana Dispensaries, Marijuana Cultivation Facilities, Commercial Cannabis Activities, and Medical Marijuana Deliveries"

Written communications for this item included a staff PowerPoint presentation.

Senior Planner Adam Petersen reviewed the staff report via a PowerPoint presentation.



Mayor Chang opened the public hearing and the following individuals spoke:

Cathy Helgersen (distributed written comments)  
Pam Rabeck

Mayor Chang closed the public hearing.

City Clerk Grace Schmidt read the title of the urgency ordinance.

Wong moved and Sinks seconded to read Urgency Ordinance No. 16-2139 by title only and that the City Clerk's reading would constitute the only reading thereof. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

Wong moved and Sinks seconded to enact Urgency Ordinance No. 16-2139. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

City Clerk Grace Schmidt read the title of the regular ordinance.

Wong moved and Sinks seconded to read Ordinance No. 16-2140 by title only and that the City Clerk's reading would constitute the first reading thereof. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

#### **ORDINANCES AND ACTION ITEMS continued**

14. Subject: Consideration of Proposed Lease with Verizon Wireless for a cell tower to be located on the Civic Center Property (Torre Avenue), subject to the terms of any City-issued permits  
Recommended Action: Adopt Resolution No. 16-008 to: 1. Authorize the City Manager to execute an Antenna Ground Lease between the City of Cupertino and GTE Mobilnet dba Verizon for a term of up to 5 years, for a cell tower to be located on the Civic Center Property, in substantially the form as presented to Council, and subject to the terms of any City-issued permits; and 2. Authorize the City Manager to negotiate and execute up to two five year (5-year) options consistent with the terms of the Lease

Written communications for this item included an amended staff report.

Public Affairs Director Rick Kitson reviewed the staff report.

Mayor Chang opened public comment and the following individuals spoke:

Rod Livingood (on behalf of the Cupertino Technology, Information, and Communications Commission - TICC)

Anna Soland

Santa Clara County Fire Chief John Justice

Santa Clara County Sheriff's Office Capt. Rick Sung

Ken Erikson (on behalf of Cupertino Office of Emergency Services)

David Alesio

Wong moved and Sinks seconded to adopt Resolution No. 16-008 to: 1. Authorize the City Manager to execute an Antenna Ground Lease between the City of Cupertino and GTE Mobilnet dba Verizon for a term of up to 5 years, for a cell tower to be located on the Civic Center Property, in substantially the form as presented to Council, and subject to the terms of any City-issued permits; and 2. Authorize the City Manager to negotiate and execute up to two five year (5-year) options consistent with the terms of the Lease. The motion carried unanimously.

15. Subject: An ordinance amending sections 14.04.100 and 18.56.040 of the Cupertino municipal code to provide for a limited waiver of reimbursement requirements when a property owner dedicates right-of-way for a city street improvement or facility project. Recommended Action: Conduct the first reading of Ordinance No. 16-2141: "An Ordinance of the City Council of the City of Cupertino amending Sections 14.04.100 and 18.56.040 of the Cupertino Municipal Code to provide for a limited waiver of reimbursement requirements when a property owner dedicates right-of-way for a city street improvement or facility project," to facilitate the provision of sidewalks and street widening in certain areas where pedestrians and bicyclists are prevalent.

Written communications for this item included a staff PowerPoint presentation.

Director of Public Works Timm Borden reviewed the staff report via a PowerPoint presentation.

Mayor Chang opened public comment and the following individuals spoke:

Cathy Helgersen

Lisa Warren

Peggy Griffin

City Clerk Grace Schmidt read the title of the ordinance.

Wong moved and Vaidhyanathan seconded to read Ordinance No. 15-2141 by title only and that the City Clerk's reading would constitute the first reading thereof with the following amendment: Amend ordinance language such that the City Council determines the percent of a waiver to offer for right of way acquisition for individual projects as they are approved during the CIP Budget process. Ayes: Chang, Vaidhyanathan, Paul, Sinks and Wong. Noes: None. Abstain: None. Absent: None.

16. Subject: Proposed Initiative submitted by Cupertino Residents for Sensible Zoning Action Committee  
Recommended Action: Adopt Resolution No. 16-009 directing City staff to prepare a report on the effects of the Initiative pursuant to Elections Code Section 9212

Written communication for this item included a resident email and an amended resolution.

City Manager David Brandt reviewed the staff report.

Mayor Chang opened public comment and the following individuals spoke:

Cathy Helgersen  
Liang-Fang Chao (on behalf of Cupertino Citizens Sensible Growth Initiative)  
Peggy Griffin  
Jennifer Griffin

Wong moved and Sinks seconded to adopt Resolution No. 16-009 directing City staff to prepare a report on the effects of the Initiative pursuant to Elections Code Section 9212. The motion carried unanimously.

17. Subject: Council committee assignments  
Recommended Action: Approve assignments

Written communications for this item included the draft Council committee assignments chart.

Wong moved and Vaidhyanathan seconded to approve the assignments. The motion carried unanimously.

## REPORTS BY COUNCIL AND STAFF

18. Subject: Report on Committee assignments and general comments  
Recommended Action: Report on Committee assignments and general comments

Chang and Sinks agreed to agendaize the following items:

- Regional transportation issues regarding the proposed Santa Clara County sales tax for first meeting in February
- Noise issues at Lehigh

Council members highlighted the activities of their committees and various community events.

## ADJOURNMENT

At 10:05 p.m., Mayor Chang adjourned the meeting to the regular meeting of Tuesday, February 2, 10350 Torre Avenue, Community Hall Council Chamber, Cupertino, CA. Note: A special meeting of the Cupertino Public Facilities Corporation followed tonight's regular City Council meeting.

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Grace Schmidt, City Clerk

Staff reports, backup materials, and items distributed at the City Council meeting are available for review at the City Clerk's Office, 777-3223, and also on the Internet at [www.cupertino.org](http://www.cupertino.org). Click on Agendas & Minutes, then click on the appropriate Packet.

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